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SUMMARY RECORD OF THE 5th MEETING

Chairman:

Mr. LAMPTEY

(Ghana)

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AGENDA ITEM 138: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE
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The meeting was called to order at 10.40 a.m.

ELECTION OF OFFICERS

1. The CHAIRMAN recalled that there were three candidates for the two posts of Vice-Chairman: Mr. Chaturvedi (India), Mr. Madej (Poland) and Mr. Martens (Germany). It was his understanding that the informal consultations concerning the election of the two Vice-Chairmen had not, unfortunately, been conclusive, so that the Committee was obliged to take a vote.
2. Mr. MARTENS (Germany) said that he was withdrawing his candidacy for one of the posts of Vice-Chairman. Past experience had taught him that it was important for the orderly conduct of its work that the Committee should take action by consensus, particularly regarding procedural matters. He hoped thereby to facilitate the task of the Committee and its Chairman.
3. The CHAIRMAN thanked the representative of Germany, whose decision was in keeping with the spirit that ought to prevail within the Sixth Committee.
4. Mr. CHATURVEDI (India), supported by Mr. MADEJ (Poland), thanked the Group of Western European and other States and expressed his deep gratitude to the representative of Germany in particular for the spirit of compromise he had displayed.
5. The CHAIRMAN announced that there was only one candidate for the post of Rapporteur, Mrs. Fernandez de Gurmendi (Argentina) and said he would take it that the Committee wished to elect Mr. Chaturvedi (India) and Mr. Madej (Poland) Vice-Chairmen and Mrs. Fernandez de Gurmendi (Argentina) Rapporteur.
6. It was so decided.

AGENDA ITEM 138: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTY-SEVENTH SESSION (continued) (A/49/17, A/49/427)

7. Ms. BARRETT (United Kingdom) welcomed the fact that the United Nations Commission on International Trade Law (UNCITRAL) had concluded its consideration of the Model Law on Procurement of Goods, Construction and Services, which was a valuable addition to the Model Law on Procurement of Goods and Construction adopted in 1993. That law, together with the Guide to Enactment, would be a valuable resource for countries drafting legislation on those subjects.
8. Her delegation welcomed the work started by UNCITRAL on the preparation of a set of guidelines concerning preparatory conferences in arbitral proceedings. The objective of the guidelines - to set out clearly for the parties the kind of issues which could be agreed by them before a formal arbitration commenced - was a worthwhile one. Work on the guidelines should be completed before the Commission's twenty-eighth session, taking account of the comments made by experts at the conference to be held by the International Council for Commercial

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Arbitration in November 1994. Those guidelines would be a valuable addition to other UNCITRAL texts on arbitration.

9. With regard to the Working Group on Electronic Data Interchange (EDI), her delegation was pleased to see that UNCITRAL had set a timetable to ensure that the work on core provisions of a legal framework for the use of EDI was completed before its 1995 session. Considering the importance of that subject, it was understandable that the Working Group had set itself a demanding schedule.

10. Her delegation was gratified to see that the Working Group preparing the draft convention on independent guarantees and stand-by letters of credit was expected to produce the final text in time for consideration at the Commission's 1995 session.

11. Recalling the concerns which had been raised in previous years about the level of participation by developing countries in the work of UNCITRAL, she was pleased to see from the Secretary-General's report contained in document A/49/427 that the Trust Fund requested by the General Assembly had been established. She hoped that it would facilitate the participation of experts from developing countries in the work of the Commission.

12. Mr. AYEWAH (Nigeria) welcomed the adoption by UNCITRAL of the Model Law on Procurement of Goods, Construction and Services, which marked a significant step towards making international commercial law uniform. The Model Law had many virtues, among which were efficient management of resources through competitive pricing, transparency, responsibility, accountability and fairness both to the procuring State and the contractor. It was designed to eliminate abuses while assuring the public that government purchasers were spending public funds in a responsible manner. Such terms were particularly suitable to a developing country like Nigeria, which engaged in procurement largely through the public sector and where scarce resources must be shared between competing interests. On the international plane, the Model Law promised to remove obstacles to international trade created by inadequate, outdated, and, in some cases, inconsistent national laws. His delegation therefore recommended that States should adopt it with appropriate modifications, according to their national situations. The Guide to Enactment of the Model Law in domestic legislation adopted by UNCITRAL at its twenty-seventh session should assist States in the elaboration of appropriate legislation in that regard.

13. Many developing countries benefited from a training and technical assistance programme run by UNCITRAL in the form of seminars and symposia. The programme had proven to be a useful instrument for the dissemination of UNCITRAL texts and had contributed in no small measure to the increase of public awareness of the Commission's work. In addition, the UNCITRAL secretariat had in some cases provided assistance to States to review their national laws or enact new legislation in line with UNCITRAL model laws or conventions. The sharp increase in demand for that programme from States, especially from developing countries and States in transition, was evidence of its impact. His delegation was therefore pleased with the Secretariat's plan to hold more

seminars in developing countries, particularly in Africa. It would be useful to increase the number of interregional and regional training seminars. He also expressed appreciation to donor countries which provided resources for the increased participation of developing countries in UNCITRAL seminars and symposia. Unfortunately, resources for that purpose were dwindling. Perhaps the Sixth Committee could ensure that the UNCITRAL programme of seminars and symposia did not suffer and that adequate resources were provided for it.

14. In that connection he noted that the Secretariat had begun to take action to implement General Assembly resolution 48/32, concerning the establishment of a trust fund to enable the Commission to discharge its obligations to States wishing to participate in its work, and he appealed to States to contribute to the Trust Fund.

15. His delegation believed that the publication of case-law on UNCITRAL texts (CLOUT) would become a useful educational tool for the dissemination of UNCITRAL texts and would help promote their uniform interpretation. He therefore urged that the Secretariat be provided with adequate resources, within existing means, to carry out the additional responsibility placed on it with respect to CLOUT.

16. His delegation also noted with satisfaction the chapter of the report concerned with the status of UNCITRAL Conventions and the increase in accessions to a number of them. It was concerned, however, at the slow pace of adoption by States of the United Nations Convention on the Carriage of Goods by Sea, 1978 ("the Hamburg Rules"). The coexistence of two liability regimes - the Hamburg Rules and the Hague Rules (1924) or Hague-Visby Rules (1968) and their respective protocols - was cause for concern. The Hamburg Rules were meant to replace the Hague Rules but they were not receiving the support they deserved. That state of affairs was creating disparities in the shipping liability regime; the growing disparity in national laws were also creating confusion. Nigeria therefore urged States to make every effort either to adhere to the Hamburg Rules or to promote unification on the basis of the more up-to-date liability regime offered by those Rules.

17. His delegation commended the Commission's work on the draft convention on guarantees and stand-by letters of credit and on electronic data interchange. It looked forward to the early conclusion of work in those areas. It also commended current initiatives in cross-border insolvency and "build-operate-transfer" projects.

18. Mr. POLITI (Italy) said that his delegation welcomed the adoption of the UNCITRAL Model Law on Procurement of Goods, Construction and Services and of the Guide to Enactment of the Model Law. It believed that those instruments would greatly contribute to the harmonization and unification of the law in the procurement of services.

19. His delegation commended the progress made by UNCITRAL towards preparing the text of the guidelines for preparatory conferences in arbitral proceedings and of the draft convention on independent guarantees and stand-by letters of credit. It was confident that in both cases the Commission would be able to

complete its work at its twenty-eighth session, in 1995. Moreover, it concurred with the opinion expressed in the report that the Working Group on Electronic Data Interchange should aim to complete a draft a draft set of basic model statutory provisions on EDI at its twenty-eighth or twenty-ninth session.

20. His delegation was glad to note that three editions of the CLOUT abstracts series had been published so far. Those publications would be highly beneficial in promoting the uniform interpretation and application of the statutory texts of UNCITRAL.

21. With respect to the future work of UNCITRAL, his delegation was pleased that work had been undertaken on the issues of legal aspects of receivables financing and, in particular, of cross-border insolvency. There was a need to explore the possibility of developing legal mechanisms and instruments to reduce disparities and conflicts between national laws relating to insolvency proceedings. Further study in the areas of judicial cooperation and access to foreign courts and recognition of orders issued by such courts would be a significant step in that direction.

22. With regard to training and assistance, his delegation was particularly satisfied that the Secretariat had agreed to co-sponsor the International Trade Law Postgraduate Course to be organized by the University Institute of European Studies and the International Training Centre of the International Labour Organization in Turin.

23. Mr. DARMOSUTANTO (Indonesia) said that his delegation was pleased that UNCITRAL had organized various symposia and seminars which had been very useful for developing countries. There was no doubt that the training and technical assistance provided by UNCITRAL contributed greatly to a better understanding and use of the texts prepared by the Commission. His delegation therefore welcomed the efforts made by the Secretariat to increase the number of seminars and symposia in that area.

24. His delegation felt that the Model Law on Procurement of Goods, Construction and Services contained important legal precepts which should serve as a guide for States in codifying their national laws on procurement. The title of the model law was very appropriate since it fully reflected the difference between the scope of the model law and that of the earlier model law on procurement of goods and construction which had not covered procurement of services.

25. It was gratifying that there was general support for carrying out further deliberations on the draft guidelines for preparatory conferences in arbitral proceedings. Model laws in international commercial arbitration were of particular importance to developing countries. They had seldom been the seat of such arbitration since their national laws contained legal rules which were more appropriate for domestic arbitration than for international commercial arbitration. Therefore, the undertaking by UNCITRAL to prepare guidelines would meet the needs for legal technical assistance of third world nations. His delegation looked forward to the revised draft guidelines to be submitted to the

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Commission at its twenty-eighth session. In that connection, the holding of the XIIth International Arbitration Congress by the International Council for Commercial Arbitration (ICCA) at Vienna in November 1994 would provide an opportunity for practitioners from around the world to offer their input to the development of law in that field.

26. The question of the legal problems arising from the conclusion of contracts by electronic means was of great importance in banking practice and also touched upon more general problems concerning the impact of technology on contract law. He welcomed the preparation of legal rules on electronic data interchange (EDI) by the working group on EDI. In that context, he supported the recommendation that UNCITRAL should undertake work on the issue of negotiability and transferability of rights in goods in a computer-based environment as soon as it had completed the model statutory or "core" provisions.

27. His delegation had noted with interest the three editions of the CLOUT abstracts containing 52 court decisions and arbitral awards relating to the United Nations Convention on Contracts for the International Sale of Goods and the UNCITRAL Model Law on International Commercial Arbitration. Those documents should be made available in various languages through electronic communications systems to users around the world. The Secretariat must ensure that adequate financial resources were allocated to allow the effective operation of CLOUT.

28. With regard to the Commission's future work, the Indonesian delegation welcomed the inclusion of certain additional issues for consideration by the Secretariat, including legal aspects of receivables financing, cross-border insolvency and build-operate-transfer projects. Finally, it was heartening to note the Commission's coordination of its work with that of other international organizations, including its association with the Asian-African Legal Consultative Committee, with a view to promoting and taking follow-up action on its legal texts.

29. Mr. DOPKYUNAS (Belarus) said that the Model Law on Procurement of Goods, Construction and Services adopted by the Commission at its twenty-seventh session would be very useful for the efforts currently being made to improve and unify Belarusian legislation in that field in order to create a juridical environment conducive to the success of the country's economic reforms.

30. The Belarusian delegation wished to stress the importance of the first discussion of the draft Guidelines for Preparatory Conferences in Arbitral Proceedings and noted with appreciation the Commission's stated intention to include in its work on the revised draft valuable critical input from the work of the XIIth International Arbitration Congress.

31. His delegation regarded the elaboration of legal rules on electronic data interchange as a very promising and important undertaking. Like the members of the Commission, his delegation supported the idea of beginning the preliminary work on the issue of negotiability and transferability of rights in goods in a computer-based environment, a field in which the unification and streamlining of legal provisions were especially critical.

32. Finally, with regard to the Commission's future work, the Belarusian delegation hoped that the study undertaken by the Secretariat on the expediency of elaborating harmonized rules on cross-border insolvency and legal rules concerning build-operate-transfer projects (BOT) would lead to the inclusion of those problems in the Commission's agenda.

33. Mr. HAFNER (Austria) said that the UNCITRAL Model Law on Procurement of Goods, Construction and Services, which widened the scope of application of the previous Model Law on the same subject, was timely, not only because it responded to the need for harmonization in that legal field which had arisen as a result of the changes in the economic structures of certain European States, but also because it would facilitate international competition in public procurement and was in harmony with the development of the General Agreement on Tariffs and Trade (GATT). Moreover, the separate existence of the two instruments offered a choice to States.

34. With regard to the draft Guidelines for Preparatory Conferences in Arbitral Proceedings, the Austrian delegation was of the view that preparatory conferences could assist those who were not so experienced in using that kind of dispute settlement procedure as they would make the procedure itself predictable. However, the preparatory conferences should not work to the detriment of one of the salient features of the arbitration procedure, namely, its flexibility.

35. The Austrian delegation was confident that the comments received at the XIIth International Arbitration Congress and the discussions during the twenty-seventh session of the Commission would assist the Secretariat in drawing up a revised version of the draft Guidelines and facilitate the production of the final text at the Commission's following session.

36. As for the draft convention on independent guarantees and stand-by letters of credit, even though the convention had not yet entered into force, its objective value should not be underestimated: even States which would not be bound by an instrument that had already found general approval could hardly escape its persuasive authority.

37. The merit of the Commission's work in the field of electronic data interchange was that such work did not seek to harmonize existing domestic legislation in the field but to deal with new problems and to attempt to find solutions which could attract broad support so as to make unnecessary a later effort to harmonize legal regimes.

38. The extent to which the publication of abstracts of Case Law on UNCITRAL Texts was appreciated by States could be measured by the fact that other international organizations were attempting to follow the Commission's example. Nevertheless, the system could achieve its full effect only if some sort of information link was established to ensure access by domestic courts and lawyers to such information. Only under such circumstances could the system substantially contribute to the harmonization of the jurisprudence relating to

the United Nations Convention on Contracts for the International Sale of Goods and the UNCITRAL Model Law on International Commercial Arbitration.

39. The complexity of modern legislation governing in particular international trade law in all its aspects required sufficient training and technical assistance. The Austrian delegation therefore appreciated the Commission's activities in that field, especially the regional and national seminars, and regretted that only a portion of the requests for training and assistance could be met.

40. In that context, the Austrian delegation wished to express its satisfaction with the organization by the Institute of International Commercial Law at Pace University (New York) of the first Willem C. Vis International Commercial Arbitration Moot, which had been held at Vienna in March 1994. That type of exercise was an extremely useful means of training future lawyers and fit very well into the Commission's general training and assistance programme.

41. Mrs. TSONEVA (Bulgaria) welcomed the Commission's contribution to the progressive development and codification of international trade law. Thanks to the instruments which it elaborated, the Commission was making a valuable contribution to the development of equitable commercial relations and to the elimination of all elements of unpredictability in international trade. In that connection, the UNCITRAL Model Law on Procurement of Goods, Construction and Services and the draft Guide to Enactment were important instruments. The Model Law, which provided a modern and detailed interpretation of commercial relations, was an effective compromise between existing legal systems and represented a judicious balance that was capable of safeguarding the interests of all parties involved in procurement. The Bulgarian legislature would establish the principles for the unification of procedures and for freedom of contract in the future commercial law of Bulgaria.

42. The Bulgarian delegation was of the view that, as the principal legal body concerned with trade in a universal organization, the Commission should monitor the consideration of issues in that field by other organizations, such as the Economic Commission for Europe and the European Union. Her delegation also recognized the importance, as part of the progressive development of international trade law, of work on the elaboration of a draft convention on independent guarantees and stand-by letters of credit by the Working Group on International Contract Practices. In light of the interest which the developing countries and countries in transition had in that field, she hoped that the Commission would consider the draft convention at its twenty-eighth session.

43. Mr. MUBARAK (Egypt) recalled that, at the conclusion of the work of its twenty-seventh session on the draft Model Law on Procurement of Goods and Construction, the Commission had agreed on the final form of the model provisions on procurement of services. In that connection, it had decided to include those provisions in a global text on procurement, more specifically in the UNCITRAL Model Law on Procurement of Goods, Construction and Services, thereby providing a unique reference source for States wishing to rely on those provisions for the elaboration of their own laws.

44. In that regard, the Egyptian delegation was also of the view that there was no need to amend the UNCITRAL Model Law on Procurement of Goods and Construction which the General Assembly had endorsed in resolution 48/33 adopted at its forty-eighth session. Moreover, Egypt considered that the procurement procedures provided for in the Model Law were not too numerous and it was therefore not necessary to reduce their number in order for States to adopt them more easily. Indeed, States were not obliged to incorporate all of them into their national legislation, since they were only options which, because of their diversity, enabled each State to select those procedures that were best suited to its own economic and financial systems.

45. Referring to chapter IV of the Model Law, concerning rules for the procurement of services, he expressed his delegation's view that various procurement procedures should be applied to services. They should not be limited to requests for tenders and direct requests for tenders but should include tendering and restricted tendering and all other available procedures in so far as such procedures were in accordance with the customary practices of certain States and were not contrary to the domestic legislation applicable in that area.

46. The draft Guidelines for Preparatory Conferences in Arbitral Proceedings, which were the subject of a note by the Secretariat were a good beginning which should be followed up. The Guidelines should improve the conduct of arbitral proceedings and expedite the settlement of disputes, which was the raison d'être of arbitration. Moreover, preparatory conferences provided a forum in which the parties in dispute could meet and agree on details which could generally not be settled as part of an arbitration agreement before the dispute arose or at the time when the dispute was considered by the arbitration body. Such conferences would therefore help to save time and, more important still, to settle certain disputes without referring them to arbitration.

47. Welcoming the progress achieved during the deliberations of the Working Group on International Contract Practices on the draft articles on independent guarantees and stand-by letters of credit, he said that his delegation wished to make some observations in that regard. First of all, it would prefer to have the draft articles to take the form of a model law rather than an international convention in order to give States time to review their domestic legislation in the light of the provisions adopted.

48. Moreover, unlike the questions usually considered by the International Law Commission, the draft articles dealt with very detailed questions (problems of conflicting laws, the choice of applicable law, whether it was appropriate to refer matters to ordinary courts or to arbitration, the jurisdiction of arbitration bodies, etc.) which were generally determined by domestic legislation and fell within the competence of States. Thus, making the draft articles into a full convention might complicate their adoption because of the substantive differences which might exist between the provisions of the convention and the domestic legislation of States. On the other hand, giving them the form of a model law would allow States time to consider each provision at leisure and in depth.

49. Moreover, his delegation did not favour extending the scope of application of the draft articles for fear that they would then encroach on areas which were already governed by other international conventions such as the United Nations Convention on Contracts for the International Sale of Goods, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in civil and commercial matters, the Lugano Convention which governed similar questions and the Rome Convention of 1980 on the law applicable to contractual obligations. Lastly, in the past, the work of UNCITRAL had demonstrated the effectiveness of giving draft articles the form of model laws, particularly when such articles dealt with questions which affected domestic law. In that connection, his delegation wished to refer to the UNCITRAL on Arbitration Rules which had been adopted in 1976 and ratified by many third world countries, the UNCITRAL Model Law on International Credit Transfers and the UNCITRAL Model Law on Procurement.

50. He referred to his delegation's great interest in the work of UNCITRAL since its establishment in 1968. The contribution made by one of Egypt's most distinguished experts in trade law, Mr. Mouhsen Chafiq, to the Commission's work had served to express not only Egypt's point of view but also that of other countries in a similar situation, to enrich the debate and to arrive at model laws and balanced agreements which had been gradually implemented. In that connection, he stressed that his country had recently promulgated a new law on the arbitration of international administrative and commercial disputes which was based, in large part, on the UNCITRAL Arbitration Rules and in 1990, a law on maritime trade which was also largely based on the provisions of the United Nations Convention on the Carriage of Goods by Sea, adopted in 1978 (Hamburg Rules).

51. In that connection, his delegation believed that, if the Commission on International Trade Law was to pursue its activities effectively and be able to give impetus to the process of harmonizing and unifying international trade law, it would have to meet a dual requirement. First, training programmes and fellowships in trade law for nationals of developing countries and, in particular, the least developed countries must be continued and improved. In that connection, his delegation welcomed the activity undertaken by UNCITRAL and by the Secretariat which, in 1993, had organized six national seminars held in different regions of the world. Second, the different legal systems must be duly represented during the debates of the Commission. While that condition had theoretically been fulfilled with the increase in the number of members of the Commission to 36, it was none the less evident in practice that most developing States members of the Commission had difficulty sending representatives to its meetings. Those difficulties were due to the increased cost of travel and accommodation which the States concerned must cover in order to send representatives to participate in working group meetings which sometimes lasted for weeks. The problem had repercussions on the adoption of agreements and model laws which were in force and applied. He referred in that connection to General Assembly resolution 48/32, in which the Assembly requested the Secretary-General to establish a separate trust fund for the Commission to grant assistance to developing States in order to ensure their full participation in the work of the Commission and drew attention to the progress which had been

achieved in that area and was mentioned in the report of the Secretary-General (A/49/427) on that question.

52. Miss RODRIGUEZ-SIFUENTES (Mexico) said that the new UNCITRAL Model Law on Procurement of Goods, Construction and Services, which complemented the Model Law on the Procurement of Goods and Construction, would constitute a uniform trade law instrument for the lawmakers of all countries which would be useful for the promotion of trade between States. It introduced procedures which would foster integrity, confidence, equity and transparency in procurement. It would be of considerable assistance to, in particular, countries in transition in strengthening their legislation or, if necessary, in establishing new laws in that field.

53. Her delegation welcomed the draft Guidelines for Preparatory Conferences in Arbitral Proceedings elaborated by UNCITRAL, for it viewed international commercial arbitration as an essential institution for the settlement of commercial disputes by alternative means and for progressively achieving uniformity in international trade law. The Guidelines, which were certain to facilitate the smooth conduct of arbitral proceedings, would be of great value, particularly for countries with little experience in that method of settling disputes. Her delegation therefore hoped that UNCITRAL would be able to finalize the text of the draft Guidelines at its twenty-eighth session. It also hoped that the Working Group on Electronic Data Interchange would be able to complete the preparation of legal rules on electronic data interchange (EDI) by the twenty-eighth session of UNCITRAL so that the Commission could continue to develop uniform rules concerning that new and vital commercial practice, whose wider use would increase commercial exchanges and make them more routine.

54. Upon completion of the draft, the Working Group should begin consideration of the issue of negotiability and transferability of rights in goods in a computer-based environment so as to facilitate the transport of goods and related transactions during the transport phase.

55. Her delegation welcomed the fact that the Working Group on International Contract Practices was about to complete the preparation of a draft convention on independent guarantees and stand-by letters of credit. Another important fact to bear in mind was the publication of the first three editions of the abstract series on case law on UNCITRAL texts (CLOUT) which would help to promote the uniform interpretation of the statutory texts governing trade between States.

56. Her delegation reaffirmed its support for the important preparatory work on the legal aspects of receivables financing.

57. Lastly, her delegation welcomed the fact that UNCITRAL was continuing its programme of training and assistance despite financial difficulties and hoped that, at its twenty-eighth session, the Commission would not abandon the tradition it had begun of organizing a symposium on international trade law every two years.

58. Mr. BELLOUKI (Morocco) expressed appreciation to the Chairman of the United Nations Commission on International Trade Law (UNCITRAL) for his outstanding introduction of the report by that body and stressed that it was undeniable that UNCITRAL was carrying out remarkable work in the technical and legal areas, which was the result of the efforts made by the eminent experts and the reason for the quality of the texts drawn up. Nevertheless, developing countries felt somewhat frustrated at not being able to contribute to the elaboration of UNCITRAL texts because of the burden imposed by regular participation by their experts in the work of the Commission and its working groups. Representative participation by all groups of countries would make it possible to draw up balanced texts, whose implementation would be more widely supported and accepted.

59. Referring to the Model Law on Procurement of Goods, Construction and Services, his delegation welcomed the adoption of a text with an expanded scope and a guide to enactment, whose usefulness was obvious. The Model Law adopted was of great importance in that it strengthened trust in and the equity and transparency of procurement procedures. It was also designed to promote fair competition and trading in a world resolutely committed to the liberalization of international trade. In that context, the Model Law would help all countries whose economies were in transition, particularly developing countries, to improve or draw up their own legislation on procurement. Accordingly, the international trading community could only welcome the elaboration of an instrument which would surely help to unify and harmonize national legislation in that field.

60. With regard to international commercial arbitration, his delegation stressed the effectiveness and usefulness of that method of settling trade disputes, owing to the speediness in dealing with transactions, the confidential nature of discussions, protection of important documents and specialization by arbitrators. For that reason, the establishment of guidelines, if only non-binding ones, for preparatory conferences within the framework of arbitration procedures was useful work because the Guidelines would make it possible to overcome procedural difficulties in order to ensure the smooth functioning of arbitration. The Guidelines should also make it easier to take the necessary measures to plan judiciously the stages in the procedure in order to ensure success. They would also promote the standardization of the procedural mechanisms in the field of arbitration and efforts to enhance their effectiveness. Accordingly, his delegation hoped very much that UNCITRAL would be able to adopt the text of the Guidelines in 1995.

61. Turning to guarantees and stand-by letters of credit, he hoped that a draft convention would be drawn up and adopted by the Commission at its twenty-eighth session. With regard to electronic data interchange and the drafting of legal rules in that field, his delegation felt that work should be stepped up in order to develop rather flexible model legislative provisions within the framework of an approach that was not overly ambitious.

62. He welcomed the importance given to case-law on UNCITRAL texts, and, particularly, and improving the system in that area since that would make it

possible to harmonize the interpretation and application of the texts drawn up under the auspices of the Commission. His delegation also expressed appreciation to the International Chamber of Commerce for drawing up a revised text of the uniform customs and practice for documentary credits and was sure that it would prove to be useful in international transactions.

63. In the field of training and technical assistance, the Commission should not slacken its efforts to help developing countries deal with the complexity of the texts drawn up by UNCITRAL and become familiar with provisions that sometimes were elaborated in their absence. In that connection, he expressed appreciation to the donor countries for their generous contributions making it possible to continue the training and technical assistance programme.

64. Ms. BOUM (Cameroon) said that the most recent UNCITRAL report demonstrated that, as in previous years, the Commission had made progress in 1994 on most of the items on its agenda - procurement of goods, construction and services; electronic data interchange, guarantees and stand-by letters of credit - and had begun consideration of the draft Guidelines for Preparatory Conferences in Arbitral Proceedings. While the Commission's work should certainly be commended by the Committee, her delegation felt that the Committee should, more than in the past, truly play its role as a body providing guidance to UNCITRAL and not simply defer to the decisions by the Commission, even if the matters that it considered were very technical.

65. As indicated in paragraph 242 of the report under consideration (A/49/17), Cameroon had become a party to the United Nations Convention on the Carriage of Goods by Sea, "the Hamburg Rules". In so doing, her country was filling a legal gap created in its positive law in 1985 when it denounced the 1924 International Convention for the Unification of Certain Rules of Law relating to Bills of Lading.

66. In that regard, while her delegation was also concerned about the problems created by the existence of two different legal regimes on responsibility for the transport of goods by sea, like most Commission members, Cameroon did not feel that revising the Hamburg Rules was the appropriate solution to those difficulties. On the contrary, she felt that it was necessary to continue to search for ways to ensure broad adherence to the Rules, including the adoption of resolutions inviting States which had not yet done so to consider becoming parties to the United Nations Convention. Her delegation was prepared to work towards that end at the current session with other interested delegations.

67. Lastly, as a developing country, Cameroon could not but welcome the continuation of the Commission's training and technical assistance activities. She also expressed satisfaction that, as indicated in paragraph 7 of document A/49/427, the process of setting up the Trust Fund pursuant to the request of the General Assembly contained in paragraph 5 of resolution 48/32 was now completed and she hoped that the Fund would soon have sufficient resources to ensure the participation by all Member States in the work of UNCITRAL and its working groups.

68. Ms. GOLAN (Israel) expressed satisfaction with the Commission's work in recent years in the harmonization and unification of international trade law and wished it further fruitful work and achievements during the coming year.

69. Israel had taken part in the work of the Working Group on Electronic Data Interchange and the work on guarantees and stand-by letters of credit. The UNCITRAL Model Law on Procurement of Goods, and Construction had already had an impact on Israeli domestic legislation. The completion of work by the Working Group with regard to the draft model provisions on procurement of services was highly appreciated since that aspect reflected the practical development of international trade and progress towards the new international economic order and needed special elaboration and model rules and guidance.

70. The need for coordination with the activities of other international organizations in the field of international trade law, private law and private international law should always be taken into consideration in order to avoid duplication. Israel supported the efforts by the Commission to promote training and assistance in international trade by sponsoring symposia and seminars in that field. Having attended such a seminar in 1991, she could personally attest to the benefits of such efforts.

71. Mr. MORAN BOVIO (Chairman of the United Nations Commission on International Trade Law) expressed appreciation to the members of the Committee on his own behalf and on behalf of the Commission members, the Secretary and the staff of the UNCITRAL secretariat and said that the discussion which had just taken place demonstrated that the members of the Committee understood very well the role of international trade law in bringing about a better world.

72. The CHAIRMAN said that the Committee had thus completed consideration of agenda item 138 and hoped that a draft resolution on that item could be submitted speedily.

The meeting rose at 12.45 p.m.